IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

CRP.No. 1107 of 2007()

AGAINST THE ORDER DATED 17/10/2007 IN EA.1506/07, EP.283/02 IN OS.733/1998 of II ADDL.SUB COURT,THRISSUR
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REVN. PETITIONER: PETITIONER/2ND JUDGMENT DEBTOR:

ABOOBACKER, S/O.MUHAMMED, CHOMAYIL HOUSE CHERUTHURUTHY VILLAGE, THALAPPILLY TALUK.

BY ADV. SRI.DINESH MATHEW J.MURICKEN

RESPONDENTS: RESPONDENT/DECREE HOLDER:

MANUAL SONS FINANCIAL ENTERPRISES (P) LTD., M.O.ROAD, THRISSUR-1.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 1107 OF 2007

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Dated this the 14th day of December, 2007.

O R D E R

This revision petition is preferred against the order of the Subordinate Judge, Thrissur in E.A.1506/07 in E.P.283/02 in O.S.733/98. It was an application filed by the 2nd judgment debtor to permit him to remit the decree debt in instalments. It is submitted by him that he is only getting an amount of Rs.1,500/- as salary after all deductions and recovery. He has got five cents of land which is also subjected to large number of attachments. Therefore, he has offered to pay the decree amount at the rate of Rs.300/- per month. This was strongly opposed by the decree holder. It is submitted that on an earlier occasion the High Court directed the petitioner to pay at the rate of Rs.3,500/- per month. The Court below after considering the entire materials found that even if at at the rate of Rs.300/- the amount is to be paid it will take half a century and therefore it is not possible. Similarly under Order 20 Rule 11(2) CPC instalment facility can be offered only when the decree holder

consents to it. Here the decree holder has resisted the same. The whole problem is how to fix the amount. It is submitted that there is no income for the person. The Court below held that instalment facility can be granted at the rate of Rs.8,000/- per month. Considering the amount involved I cannot find fault with the Court below for fixing the instalment facility at the rate of Rs.8,000/-. Therefore the order does not suffer from any infirmity and therefore it is only to be confirmed but I make it very clear that offer to pay the amount in instalment shall not be taken as a ground to say that a person is having means to pay the entire amount in lump sum. But in an appropriate proceeding if it has to be considered this has to be taken note of as well. With this observation, this C.R.P. is disposed of.

M.N. KRISHNAN, JUDGE.

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